
***ALAMEDA COUNTY CONGESTION MANAGEMENT
AGENCY***

Fiscal Year 2003-2004

**Disadvantaged Business Enterprise Overall
Goal**

Revised Submittal 11/5/03

November 5, 2003

Via Hand Delivery

Mr. Arthur Duffy, P.E.
Local Assistance Area Engineer
California Department of Transportation
111 Grand Avenue, Room 12-600
Oakland, CA 94612-3717

Subject: Revised Disadvantaged Business Enterprise Overall Goal for Fiscal-Year 2003-04

Dear Mr. Duffy:

Enclosed please find the revised Disadvantaged Business Enterprise (DBE) Overall Goal Report for the Alameda County Congestion Management Agency (CMA) for Fiscal-Year 2003-04. These revisions are based on the comments received from your office on October 24, 2003. Those comments are addressed individually below.

Comment:	Response:
Please indicate the market area considered in this submittal.	The market area considered in our submittal is Alameda County.
Although the contemplated adjustment for Step 2 is, in your case is very minor: the statement at the beginning ...isn't completely true. Step 2 does not require adjustment of the base figure unless there is demonstrated need to do so. Past Participation, in and of itself, is not a good reason to adjust the base-figure, especially when the past contracts are upcoming contracts are not completely equivalent. Either provide additional data to demonstrate a need to adjust for past participation, or revise figure back to the base figure of 25%.	Base figure has been revised back to 25 percent.
Number of bidders, including both DBE and Total, seem too low to accurately reflect DBE availability.	There were relatively few bidders on CMA projects during the period under consideration. Nonetheless we elected to use the bidders list method outlined in 49 CFR part 26.45 (c) (3) to determine availability because bidders demonstrate that they are ready, willing and able to work on CMA projects. The use of DBE directories and Census data was ruled out because the Census does not denote if firms are ready, willing or able. CMA does not have a disparity study to rely on or another DOT recipient that performs like contracts.
Number of Work Codes for "Construction" category (only SIC code 1600) seems insufficient to narrowly tailor goal	The "Construction" category code has been revised to SIC code 1611 Highway and Street Construction.
Please explain item #6 in the table "FEDERALLY ASSISTED CONTRACTS." It states that the average DBE contract size is \$165,000? This appears wrong.	Since CMA will not adjust the base figure, the table has been deleted.

DBE OVERALL GOAL: FISCAL YEAR 2003-2004

I. Goal Setting Methodology

A. Step One: Determining a Base Figure

The Alameda County Congestion Management Agency (CMA) elected to determine the base figure, representing the availability of DBEs in its market area (Alameda County) relative to all businesses ready, willing, and able to participate in DOT-assisted contracts, by weighting CMA's bidders list data by the types of contracts CMA expects to award in the 03/04 fiscal year.

CMA awarded three federally assisted contracts during the past 16 months. The table below displays the three contracts, their work category, and corresponding Standard Industry Classification (SIC) Code, and the distribution of federal funding.

<u>Project</u>	<u>Work Category</u>	<u>SIC Code</u>	<u>Bidders</u>	
			<u>DBE</u>	<u>All</u>
SMART Corridor Construction Management	Construction Management	8741	9	16
SMART Corridor Construction	Construction	1611	2	8
Sunol Grade Design	Engineering	8717	14	44
<u>TOTAL</u>				

The table below lists the projected contracts for fiscal year 2003-2004, the corresponding SIC code, and anticipated federal funding. The types of work represented by the contracts projected during the upcoming Fiscal Year are each represented in CMA's bidders list for its recent contracts.

<u>Project</u>	<u>Work Category</u>	<u>SIC Code</u>	<u>Percent of Federal Funding by Project</u>
SMART Corridor Operations and Maintenance	Engineering	8717	7%
Sunol Grade Sound Wall Construction	Construction	1611	93%
<u>TOTAL</u>			100%

The base figure is determined as follows:

- For the numerator: DBE bidders
- For the denominator: All bidders

$$X\left(\frac{A}{B}\right) + Y\left(\frac{C}{D}\right) = \text{DBE Availability Base Figure}$$

Where:

A= The number of DBE bidders in SIC Code 8717	B= The number of all bidder in SIC Code 8718
C= The number of DBE bidders in SIC Code 1600	D= The number of all bidders in SIC Code 1600
X= The percentage of federal funding in SIC Code 8717	Y= The percentage of federal funding in SIC Code 1600

Application of this formula yields the following baseline information:

$$0.07\left(\frac{14}{44}\right) + 0.93\left(\frac{2}{8}\right)$$

$$(0.02) + (0.23) = 0.25$$

The CMA base figure is therefore **25 percent**.

B. Step Two: Adjusting the Base Figure

Upon establishing the base figure, CMA reviewed and assessed other known relevant evidence to determine what additional adjustments are needed to narrowly tailor the base figure to CMA's marketplace. CMA did not any identify any evidence that demonstrated a need to adjust the base figure. As such, CMA will adopt the base figure of **25 percent** as the overall goal.

II. Utilization of Race-Neutral and Race-Conscious Methods

CMA awarded one prime contract to a DBE firm for \$1 million or 10 percent of its federally assisted contracting in FY 2002-2003. DBE contract awards at the prime contractor level represent DBE utilization without the use of contracting goals. CMA anticipates also meeting 10 percent of the 25 percent DBE goal during FY 2003-2004 utilizing race-neutral methods. The race and gender-neutral efforts to be utilized by CMA include the following:

A. Contract-Specific Measures

The CMA Disadvantaged Business Liaison Officer (DBELO) will "list" construction projects at the 95 percent PS&E phase of design. The listing will consist of the draft project description, the anticipated release date and the DBE goal for the project. Project listings will be posted on CMA's website and disseminated through other means. This will provide prime contractors and subcontractors more lead time for networking and outreach.

When possible, CMA project managers will allow at least six weeks between the time an Invitation to Bid is advertised and the actual bid opening date. Again this will provide more lead-time for

networking, outreach, and preparing bids.

CMA project managers will continue to hold mandatory pre-bid meetings to explain the project specifications, general conditions, and DBE Program goals and requirements.

B. General Program Measures

General DBE Program race-neutral outreach efforts will include the following:

- Working with small business resource and assistance organizations to attract DBE bidders
- Agency participation in small business-focused seminars and workshops such as the Alameda County Public Works BOB meetings and the Port of Oakland Breakfast of Champions

The remaining 14 percent of the goal will be accomplished through race-conscious measures that include establishing contract-specific goals on contracts with race-focused possibilities, when needed, to meet CMA's overall DBE goal. CMA project managers in conjunction with the CMA's DBE Program Consultant will set contract-specific goals.

CMA's DBE Program Consultant will adjust the estimated breakout of race-neutral and race-conscious participation at the end of the six-month period for this fiscal year to reflect actual DBE participation by race-neutral means per 49 CFR 26.51(f). That is, if actual race-neutral participation falls short of projected race-neutral participation, CMA will increase its usage of race-conscious means to reflect the percentage not reached by race-neutral means.

III. Public Participation in Annual Overall Goal Setting

In conformance with the Public Participation Regulatory Requirements of 49 CFR Part 26.45 and the Caltrans Local Assistance Procedures Manual (LAPM) Chapter 9/Section 9-5, CMA's DBE Program Consultant will coordinate the review of this goal analysis with the following minority, women and local business chambers, general contractor groups, community organizations, and other USDOT recipients:

- The Alameda County Public Works Agency
- The Alameda County Transportation Improvement Agency
- The Bay Area Black Contractors Association
- The City of Oakland Contract Compliance Department
- The Oakland Metropolitan Chamber of Commerce
- Associated General Contractors of Alameda County
- Hispanic Chamber of Commerce of Alameda County
- Filipino American Chamber of Commerce, East Bay Chapter
- Korean American Chamber of Commerce
- Oakland Black Board of Trade and Commerce
- Oakland Chinatown Chamber of Commerce
- Oakland-Alameda County Black Chamber of Commerce

- East Bay Asian Design Professionals
- Society of Women Engineers
- Structural Engineers Association of Northern California

These entities are knowledgeable about the availability of disadvantaged and non-disadvantaged businesses and the effects of discrimination on contracting opportunities for DBEs within CMA's marketplace, Alameda County.

The CMA DBELO will publish a Public Notice prepared by the DBE Program Consultant in the following general circulation, women, and minority-focused media:

- *The San Francisco Chronicle*
- *The Oakland Tribune*
- *Asian Week*
- *El Mensajero*
- *The Oakland Post*
- *The Daily Construction Service*
- *The Daily Pacific Builder*

The purpose of this notice is to inform the public that the proposed goal and its rationale will be available for inspection at the CMA office during normal business hours for 30 days following the date of the Public Notice. CMA and DOT will accept comments on the goal for 45 days from the date of the Public Notice.

Additionally, the CMA DBELO will post this proposed overall annual goal for FY 2003-2004 on its website at www.accma.ca.gov. CMA will also accept email comments on the goal for 45 days.

The required public participation provisions will be fully satisfied prior to submitting CMA's Overall Annual DBE Goal for final review and approval.

Christina Muller
Alameda County Congestion Management Agency
Disadvantage Business Enterprise Liaison Officer